

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments,)	
FM Broadcast Stations.)	
(Greenwood, Mississippi))	MB Docket No. 02-209
)	RM-10512
)	
(Hyannis, Nebraska))	MB Docket No. 02-210
)	RM-10510
)	
(Wall, South Dakota))	MB Docket No. 02-211
)	RM-10511
)	

NOTICE OF PROPOSED RULEMAKING

Adopted: July 24, 2002

Released: August 2, 2002

Comment Date: September 23, 2002
Reply Comment Date: October 8, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it for consideration a multiple docket *Notice of Proposed Rule Making* setting forth three separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. The petitioner for each proposal has stated that it will apply for each requested channel, if allotted. We believe that each proposal warrant consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rule Making*. Each proposal has its own docket and rule making number and the Commission's Reference Information Center will maintain a separate filed for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MB Docket No. 02-209; RM-10512

Petitioner: David P. Garland
1110 Hackney Street
Houston, Texas, 77023

Proposal: Allot Channel 277A at Greenwood, Mississippi, as that community's fourth local aural transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Greenwood, Mississippi	230C3, 256C, 282C2	277A, 230C3, 256C, 282C2

Coordinates: 33-32-19 NL and 90-04-27 WL

Additional Information: This allotment requires a site restriction of 10.1 kilometers (6.3 miles) east to avoid a short-spacing to an application site of Station KZYQ, Channel 278C2, Lake Village, Arkansas.

FCC Contact: Rolanda F. Smith (202) 418-2180

B. MB Docket No. 02-210; RM-10510

Petitioner: Grant County Broadcasters

c/o John M. Pelkey
 Garvey, Schubert & Barer
 5th Floor, 1000 Potomac Street, N.W.
 Washington, D.C. 20007

Proposal: Allot Channel 250C1 at Hyannis, Nebraska, as that community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hyannis, Nebraska	-----	250C1

Coordinates: 42-00-02 NL and 101-45-41 WL

Additional Information: This allotment is at city reference coordinates and requires no site restriction.

FCC Contact: Rolanda F. Smith (202) 418-2180

¹ In support of its proposal, petitioner states that Greenwood, Mississippi is located in Leflore County and has a population of 18,425.

² Hyannis, Nebraska, which was founded in 1887, is an incorporated community with a 2000 U. S. Census population of 287 persons. Hyannis is the county seat of Grant County, Nebraska, which has a population of 747 persons. The Grant County Courthouse and the State of Nebraska's 16th District sit in Hyannis. The Grant County Sheriff maintains its office in Hyannis. Hyannis has its own post office with its own zip code (69350). Hyannis is home to numerous businesses, including two banks, a grocery store, a veterinary service, a lumber yard, a family doctor and the Hyannis Hotel. Hyannis also boasts a local newspaper, *The Grant County News*. Educational needs of the community are met by Hyannis Elementary School and Hyannis High School.

C. MB Docket No. 02-211; RM-10511**Petitioner:** Wall Radio Broadcasters

c/o John M. Pelkey
 Garvey, Schubert & Barer
 5th Floor, 1000 Potomac Street, N.W.
 Washington, D.C. 20007

Proposal: Allot Channel 288C at Wall, South Dakota, as that community's first local aural transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Wall, South Dakota	-----	288C

Coordinates: 43-59-47 NL and 102-13-07 WL

Additional Information: This allotment is at city reference coordinates and requires no site restriction.

FCC Contact: Rolanda F. Smith (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before **September 23, 2002**, and reply comments on or before **October 8, 2002**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, as listed above for each docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549 (February 9, 1981).

³ Wall, South Dakota, is an incorporated community with a 2000 U. S. census population of 818 persons. It is governed by a Mayor and town council. Wall has its own post office with its own zip code (57790). Police protection is provided by the Wall City Police Department. Wall also has numerous businesses, including grocery stores, gift shops, Wall Building Center (a hardware store), Wall Drug Store, and Wall Meat Processing. Wall is a significant tourist attraction that is home to the National Grasslands Visitors' Center, the Wildlife Museum, the Wild West Wax Museum and several hotels.

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

7. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 12th Street, S.W, Washington, D.C.